

REMARKS

The Office Action issued on February 8, 2007 (“Office Action”) withdrew the prior rejections for indefiniteness under 35 U.S.C. § 112, and withdrew the Notice of Non-Compliant Amendment concerning claims 43 and 44. The Office Action then rejected claims 1-3, 5-8, 11-16, 18-24, 27, 29-39, and 42 as anticipated by US Application Publication No. 2001/0041991 by Segal, et al. (“Segal”). The remaining claims (4, 9-10, 17, 25-26, 28, and 40-41) were rejected under 35 U.S.C. § 103(a) as obvious over the combination of Segal and US Application Publication No. 2002/0010679 by Felsher (“Felsher”). Applicants respectfully traverse.

Among other things, claim 1 recites a data flow between an information-input node, an (unnamed) configuring node, and a record output node, including “1) establishing an information-transmission connection with a remote information-input node; 2) receiving medical information through [the] connection from said information-input node; 3) configuring said information into a medical history record, which medical history record is storable on a portable readable storage medium; and 4) transmitting said medical history record to a remote medical output node which ... is configured to store said medical history record on [a] portable readable storage medium” In relation to this claim, the Office Action cited Segal paragraphs [1014] (steps 1 and 2); [1010] (steps 2 and 3); [0111] (step 3); paragraphs [0144], [0145], [0146], and [0151] (steps three and four); and paragraphs [0110], [0111], and [0151] (regarding the “whereby ...” clause).

Reviewing those paragraphs from Segal, one sees that information is input into the Segal system via a website GUI. The Office Action apparently suggests that such data input meets the “establishing” and “receiving” steps of claim 1. It is less clear, however, upon what part of Segal the Office Action suggests steps three and four read. For example, nothing in Segal apparently

“configur[es] said information [that was received through the connection] into a medical history record [that] is storable on a portable readable storage medium.

The Segal system apparently stores the data, but does not describe configuring of the data in any particular way. If one reads the Office Action to infer the claimed “configuring” step from the fact that medical record data is stored on a Segal “PERC” (see Office Action citations to paragraphs [0144]-[0146]), there is no apparent “transmitting” of any configured “medical history record to a remote record output node” that will “store said medical history record on [a] portable readable storage medium.” While Segal does discuss creation of portable record carriers (paragraphs [0144]-[0151]), nothing in that discussion suggests any kind of “transmission” between a “configuring” and a “storage” on a portable carrier. For at least this reason, the Segal reference fails to show all of the elements recited in claim 1. Applicants respectfully request that the rejection of claim 1 (and all claims depending therefrom) be withdrawn.

Independently of this reasoning, applicants note that claim 8 recites that “the configuring step [of parent claim 1] further compris[es] configuring the information into a medical history record which is readable and displayable by an internet browser.” The Office Action cites only Segal paragraph [0100] as disclosing this limitation, but paragraph [0100] does not suggest that any record that is viewable on a Segal website is “configure[ed] … into a medical history record [that] is storable on a portable readable storage medium.” To the contrary, the Segal system appears to store the data in clinical database 118, which is not suggested to be configured for storage on the portable readable storage medium, nor is it apparently viewable in its native format by a web browser. For this independent reason, applicants respectfully request that the rejection of claim 8 be withdrawn.

Among other things, claim 15 recites “(1) establishing an information-transmission connection with a remote record-creating node; (2) transmitting medical information through said information-transmission connection to said record-creating node, said record-creating node being adapted to configure said information into a medical history record, said medical history record being storable on a portable readable storage medium; (3) receiving said medical history from said record-creating node; and (4) storing said medical history record on said portable readable storage medium.” As with claim 1, the Office Action cites Segal paragraph [0104] against step 1, paragraphs [0104], [0110], [0111], [0144]-[0146], and [0151] against step 2, paragraphs [0144]-[0146] and [0151] against step 3, and paragraphs [0110], [0111], and [0151] against step 4. As before, however, Segal fails to show or suggest all of the recited elements. For example, Segal neither shows or suggests that the medical history record into which the medical information is configured in step 2 is “received” by any other entity or device as recited in step 3. Further, nothing in Segal shows or suggests that the medical history record into which the information is configured in step 2. For these reasons, Applicants respectfully request that the rejection of claim 15 (and all claims depending therefrom).

Claim 21 adds to parent claim 15 that “the storing step compris[es] storing the medical history record on a compact disk which is approximately the size of a conventional credit card.” The Office Action cites the portions of Segal that describe media that could be used for PERCs, but none of the passages describes storage of a configured personal medical data record on a compact disk that is “approximately the size of a conventional credit card.” Because this additional element is neither shown nor suggested in the cited reference, applicants respectfully request that the rejection of claim 21 (and, likewise, claims 35 and 43) over Segal be withdrawn.

Claims 25-27 characterize the method of parent claim 15 by adding that the medical history record is represented in HTML, represented in XML, or readable and displayable by an internet browser, respectively, as it comes from the record-creating node. Claims 39-41 depend likewise from claim 30. As discussed in relation to claims 9-11 above, however, Segal neither shows nor suggests these aspects of the present invention. The rejection of those claims, therefore, should be withdrawn.

Claim 29 recites “transmitting medical information through the information-transmission connection to the record-creating node, which ... is associated with an application service provider.” The Office Action cites Segal paragraphs [0110] and [0111] against this element, but the cited paragraphs do not show “record-creating nodes” as limited in claims 15 and 29 are neither shown nor suggested in Segal. Further, Segal provides no suggestion to make the “record-creating nodes” with application service providers. For this independent reason, applicants respectfully request that the rejection of claim 29 (and, likewise, claim 42) be withdrawn.

As discussed above in relation to claims 1 and 15, claim 30 also recites that a configured “medical history record” is transmitted to a “record output node” that is “remote from said record-creating node.” Because these limitations are neither shown or suggested in Segal, applicants respectfully request that the rejection of claim 30 (and all claims depending therefrom) be withdrawn.

Independently of that reason, applicants further note that the additional limitation of claim 32—namely, that the transmission from the record-creating to the record output node is encrypted—is neither shown nor suggested by Segal. Since Segal does not suggest that those activities take place in remote locations, it obviously cannot suggest that the communication

between them be encrypted. For this independent reason, applicants respectfully request that the rejection of claim 32 (and claim 33 depending therefrom) be withdrawn.

The Office Action also rejected claims 4, 9-10, 25-26, 28, and 40-41 as obvious over the combination of Segal and Felsher. Felsher, however, does not overcome the failures of Segal to show all elements in the independent claims 1, 15, and 30. Therefore, even the combination of Segal and Felsher fails to show or suggest all elements of the claims just listed.

Furthermore, the alleged motivation to combine the references cited in the Office Action does not logically lead one to combine the cited references. The Office Action characterizes Segal as failing to show PKI encryption, while Felsher certainly mentions PKI, but note that claim 4 recites a PKI-encrypted link between the configuring location and the record output node. While the Office Action cites two alleged motivations, (1) to achieve “a mobile electronic medical records system capable of delivering records encrypted with a public key-private key (PKI) recognition [encryption?] and, (2) to “ensure that when a recipient seeks a record he must identify himself, his role in the patient care, and the identity of the patient and/or record,” neither makes sense in the present context. The first reason merely asserts the conclusion, and the second does not match the claimed context. The transmission said to be encrypted in claims 4 and 17 does not involve a person responsible for patient care, but instead travels between the record formatting node and the record output node. Because the alleged motivation does not actually motivate the asserted combination to achieve the claimed combination, the rejection should be withdrawn.

In some responsive remarks beginning on about page 15 of the Office Action, the Office Action suggests that Segal paragraphs [0142]-[0143] and [0147]-[0150], as well as Fig. 1, disclose an Operations Center having multiple data input, configuring and data output

elements/components. Applicant agrees to that point. The Office Action continues, however, arguing that these are equivalent to the input node, configuring node, and output node recited in the present claims. Applicants respectfully disagree. While Segal does go into some detail regarding various input methods for data going into the system, no combination of elements from Segal meets the limitations of the independent claims of the present application. In particular, there is no configuring node that transmits configured data to a remote node for storage on a portable medium.

In a subsequent paragraph, the Office Action points to Segal's intention to employ "state of the art encryption technology to secure the website," allegedly anticipating the encryption-related claims herein. Employing encryption to secure the website of Segal, however, does not suggest the presence of—let alone encryption of a transmission through—a link between a configuring node and a record output node. Applicants respectfully submit that even this alleged suggestion fails accurately to suggest the system and method now claimed.

Applicants believe that the application is in condition for allowance, and prompt action by the Office toward that end is respectfully requested. In the event any issue(s) remain, the undersigned invites the Examiner to contact him by telephone to expedite the examination of this application. Thank you.

Respectfully submitted,

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